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6 UNITED STATES DISTRICT COURT
7 NORTHERN DISTRICT OF CALIFORNIA
8 SAN JOSE DIVISION

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10 DAVID HALTERMAN,

11 Plaintiff,

12 v.

13 LEGATO SOFTWARE, a Division of EMC
14 Corporation; EMC CORPORATION, dba
EMC PERIPHERALS, INC., and DOES 1-X,

15 Defendants.

Case No. C04-2660 JW

**AMENDED STIPULATION AND
[PROPOSED] ORDER REGARDING
EXPERT WITNESSES PURSUANT
TO CIV. L.R. 6-2(a)**

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1 PURSUANT TO LOCAL RULE 6-2(a), Plaintiff David Halterman and Defendant
2 EMC Corporation (collectively, "the parties") stipulate as follows:

3 WHEREAS, the parties timely disclosed experts and exchanged reports on July 29,
4 2005 pursuant to the Court's July 8, 2005 order (except for mental health experts and reports,
5 which are covered by the Court's June 9, 2005 order);

6 WHEREAS, the Court's July 8, 2005 order requires the parties to disclose rebuttal
7 experts and exchange of reports on or before August 9, 2005;

8 WHEREAS, the Court's October 26, 2005⁴ Scheduling Order sets the last day for a
9 hearing on a party's motion to exclude expert testimony on August 29, 2005 and the close of the
10 discovery on September 14, 2005;

11 WHEREAS, given vacation schedules of experts and attorneys and trial calendars
12 of both parties' attorneys, (a) there is insufficient time between the date for disclosure of expert
13 reports and the date for exchange of rebuttal reports, (b) there is insufficient time between the
14 date for disclosure of expert reports and rebuttal reports and the last day for a hearing on a motion
15 to exclude expert testimony, and (c) there is insufficient time for the parties to complete expert
16 discovery before the discovery cutoff;

17 WHEREAS, the parties have sought two prior modifications to the schedule for
18 the case, which were approved by the Court on June 9, 2005 and July 8, 2005, respectively; and

19 WHEREAS, the parties' stipulation would not affect the time for disclosure of
20 mental health expert witnesses or the time for disclosure of mental health rebuttal witnesses;

21 IT IS HEREBY STIPULATED by and between the parties to this action through
22 their designated counsel as follows:

23 1. the parties respectfully request that this Court modify the October 26, 2004
24 Scheduling Order, the June 9, 2005 order and the July 8, 2005 order as follows:

25 (a) the last day for disclosure of rebuttal reports (other than for mental
26 health experts) shall be continued from August 9, 2005 to August 30, 2005;

27 (b) the last day for hearing on a motion to exclude an expert witness
28 shall be continued from August 29, 2005 to November 14, 2005;

(c) the close of discovery of expert witnesses only, both non-mental health and mental health and experts, shall be continued from September 14, 2005 and October 3, 2005, respectively, to October 28, 2005; and

(d) the close of non-expert discovery shall remain September 14, 2005 .

Dated: August 11, 2005

Respectfully submitted,

KATHRYN BURKETT DICKSON
DICKSON – ROSS LLP

DAVID ANGLE
ANGLE & ANGLE LLC

By: /s/

Kathryn Burkett Dickson
Attorneys for Plaintiff David Halterman

Dated: August 11, 2005

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LEANNE FITZGERALD
EMC CORPORATION

By: /s/

Michael D. Weil
Attorneys for Defendant EMC Corporation

I hereby attest that I have on file all holograph signatures for any signatures indicated by a “conformed” signature (/s/) within this efiled document.

By: /s/

Michael D. Weil
Attorneys for Defendant EMC Corporation.

IT IS SO ORDERED:

Dated: 8/15/05

/s/ Patricia V. Trumbull

The Honorable Patricia Trumbull
United States Magistrate Judge